GOVERNMENT OF ANHDRA PRADESH
ABSTRACT

Public Services – Panchayat Raj and Rural Development Department – Certain irregularities committed in regularization of services of Junior Assistant cum Bill Collectors in East Godavari District – Penalty of dismissal from service against Sri N.Lakshminarayana Sharma, the then Junior Assistant cum Bill Collector, Rangampeta, Gram Panchayat & Mandal, East Godavari District – Imposed – Court directions – Personal Hearing Conducted – Representations examined – Punishment of dismissal from service – Imposed – Orders Issued.

PANCHYAT RAJ AND RURAL DEVELOPMENT(VIG.III) DEPARTMENT

G.O.Rt.No.968 **Dated:23.12.2022**

Read the following:

1. From the General Administration (V&E) Department, Vigilance Report No.170, Dated:30.12.2006.
2. From the DPO, E.G. Dist., /CPR/E2.Vig/2006(14), dt:18.09.2007.
3. Written Statement of Defense received from Sri N.Lakshminarayana Sharma, the then JACB Rangampeta G.P&(M), E.G. District dt. Nil.
4. G.O.Rt.No.933, PR&RD(Vig.IV) Department, Dt:28.05.2012.
5. From the General Administration (COI.P) Department, D.O.Lr.No.190/COI.P/2012-3, Dated:11.01.2013.
6. Memo.No. 9502/Vig.IV/A1/2007, dt:23.05.2013.
7. Govt.Lr.No.9502/Vig.IV/A1/2007, dt:16.01.2014.
8. G.O.Rt.No.333, PR&RD (Vig.III) Dept, dated:15.2.2014.
9. Orders of the Hon'ble APAT in OA.No.1293 of 2014.
10. Representation, Dt.20.02.2018 of Sri N. Lakshmi Narayana, received through OSD to the then Minster of PR&RD, ITE&C, Endt. Dt: 02.05.2018.
11. Representation, Dt.Nil (received on 25.11.2019) of Sri N.Lakshmi Narayana.
12. Govt., Memo.No. PRR01-15023/5/2018-VIG III SECT-PRRD, dt:18/12/2019.
13. From the AP High Court, orders, dt:14.7.2022_ in W.P.No.17521 of 2021 filed by Sri N. Lakshmi Narayana, JABC (Retd).
14. Representation, Dt.09.09.2022 of Sri N. Lakshmi Narayana, JABC(dismissed).
15. From the Commissioner, PR&RD, A.P. Tadepalli, Letter No.1081278/CPR&RD/N3/2020, dt: 20.9.2022.
16. Representation, dt:9.9.2022 from Sri N. Lakshmi Narayana, Jr. Asst.,-cum-Bill Collector, (Under dismissal), Boddagandi GP,

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Y.Ramavaram (M), East Godavari District received on 31.10.2022

17. Govt. Memo.No. PRR01-15023/5/2018-VIG III SECT-PRRD, Dated:20/10/2022.
18. Representation, dt:25.10.2022 from Sri N. Lakshmi Narayana, Jr. Asst.,-cum-Bill Collector, (Under dismissal), Boddagandi GP, Y.Ramavaram (M), East Godavari District received on 31.10.2022

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O R D E R:

Vide G.O in the reference 1st read above, orders issued imposing punishment of dismissal from service against Sri N.Lakshminarayana Sharma, the then Junior Assistant cum Bill Collector, Rangampeta, Gram Panchyat, East Godavari District, under Rule 9 (X) of A.P.CS (CC&A) Rules, 1991 keeping in view of the charges proved.

2. Aggrieved by the dismissal orders the individual approached the Hon'ble APAT and Orders of the Hon'ble APAT in OA.No.1293 of 2014 is as follows:

> "------ in the light of facts and circumstances of the case, this tribunal is of the considered view that the impugned order of the penalty vide G.O.Rt.No.333.PR&RD (Vig.IV) Dept., Dated: 15.2.2014 is liable to be set aside for non consideration of explanation/representation of the applicant submitted pursuant to the show cause memo issued under Rule 21(2) of the CCA Rules, 1991 and for want of reasons/ grounds necessitating imposition of major penalty of dismissal from service and to remit the case to the 1st respondent with certain directions.
>
> Point is answered accordingly.
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> In view of the findings on point, the impugned order of penalty of dismissal from service imposed on the applicant by the 1st respondent vide G.O Rt.No.333, PR&RD (Vig.IV) Dept., Dated:15.2.2014 is set aside and the matter is remitted back to the 1st respondent with a direction to consider the explanation/representation of the applicant annexed at page No.60 to 64 of the OA, submitted pursuant to the show cause memo under Rule 21(2) of the CCA Rules, 1991 and pass appropriate orders in accordance with Rule 21(3) of the CCA Rules, 1991 and other Government orders, Circular Memo, Statutory Rules and the law governing the subject, within a period of three months from the date of receipt of the order.
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> O.A. is disposed of accordingly with the above said directions. No costs."

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3. Based on the above orders, Sri N. Lakshmi Narayana, JABC (Dismissed) has submitted representation, dt:20.2.2018 & another representation, dt:Nil received on 25.11.2019 in the reference 10th and 11th read above respectively.

4. In the reference 12th read above, the Commissioner, PR&RD was requested to examine the representation of the individual and furnish a detailed report along with his specific remarks.

5. Meanwhile the individual has approached the Hon'ble AP High Court. The AP High Court in WP No 17521 of 2021 has passed the orders on 14.07.2022 as follows:

> "....By way of the Memo No.PRR01-15023/5/2018-VIG III SECT-PRRD, dated 23.11.2021, the State Government issued instructions to the Commissioner, Panchayat Raj and Rural Development, Andhra Pradesh, Tadepalli, Guntur, to submit a detailed report along with specific remarks on or before 25.11.2021 positively. By way of Memo No.1081276/ CPR&RD/N3/2020, dated 04.07.2022, the State Government sent a reminder. The Tribunal while setting aside the order of punishment, fixed three (3) months time for passing appropriate orders.
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> In view of the same, this Court finds no justification on the part of the respondents in not complying with the order passed by the Tribunal.
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> For the aforesaid reasons, Writ Petition is disposed of, directing the respondents herein to implement the order dated 17.01.2018, passed by the Tribunal in O.A.No.1293 of 2014, as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.
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> Consequently, Miscellaneous Petitions, if any, pending shall also stand dismissed."

6. In the reference 17th read above, the individual has been given personal hearing on 25.10.2022 as a last hearing in the interest of principal of natural justice along with the District Panchayat Officer, Kakinada as well as officials of O/o the Commissioner, PR&RD. During the personal hearing the individual has been given opportunity to submit his case. He has submitted his case orally as well as through representation, dt:25.10.2022. The contents of the representation as well as remarks are depicted as follows :-

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Representation of Sri N. Lakshmi Narayana	Remarks
the E.O. has not properly appreciated the evidence in a proper perspective and gave an erroneous finding and the Hon'ble Disciplinary authority cum Principal Secretary to Government (PR&RD) without enquiry report being accepted was pleased to call for his explanation.	Cross-examination of a witness is the most efficacious method of discovering the truth and exposing falsehood in the departmental inquires. But, the Charged Officer has not utilized cross examination of the PWs unlike other C.Os did. The C.O. has right to ask for the examination of the PWs. But he failed to do so and kept silence before the Inquiry Authority i.e. C.O.I Now he cannot ask the same at this juncture of time.
He has submitted that, for the allegations that he being a petty employee of JABC of a Gram panchayat can resort dubious methods of fabrication of certificates of officers, without establishing the said allegation by examining any witnesses the said allegations cannot be held proved. In the allegations he resorted to forgery of signatures of officers, no testimony of any expert is examined. Hence, he submitted that those wild allegations are not sustainable under law.	Regarding no testimony of any expert to establish resorting dubious methods of fabrication of certificates, forgery etc., it is to held that, the standard of proof required in a departmental oral inquiry differs materially from the standard of proof required in a criminal trial. The Supreme Court has given clear rulings to that effect that a disciplinary proceeding is not a criminal trial and that the standard of proof required in a disciplinary inquiry is that of preponderance of probability and not proof beyond reasonable doubt, which is the proof required in a criminal trial. (Union of India vs. Sardar Bahadur, 1972 SLR SC 355; State of A.P. vs. Sree Rama Rao AIR 1963 SC 1723 and Nand Kishore Prasad vs. State of Bihar, 1978(2) SLR SC 46) Thus, material found not sufficient for proof in a criminal trial can be held sufficient in a departmental proceeding, and consequently a fact which is not proved in a criminal trial may be held proved in departmental proceedings.
Regarding the allegations of his encouragement of bribes, he submitted that, the E.O. has no judicial knowledge. When the charged employee denies the	In the inquiry report, it is clearly established that the C.O. has not informed / requested the I.A for any documents / cross examination of the witness. The C.O. has also not proposed any witness

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charges the burden of proof shifts on the prosecution (disciplinary authority). The findings of the EO cannot be accepted by the Disciplinary authority, since the findings of EO are not sustainable under law.	from his side to examine during the inquiry to establish his innocence and kept silent.
Regarding not payment of remuneration for certain periods, he has submitted that, he has continuously worked as JABC (part time) since 1987 and never tampered any of the records. There is no fault of him regarding non-production of records and registers for verification, as he was not there at G.Dontamuru Gram Panchayat since his services were regularized and working as regular JABC at Rangampeta GP. His services were regularized vide G.O.Ms.No. 72, PR&RD (Estt.IV) Dept., dt:27.2.2004 pursuant to the directions of the APAT in O.A 8918/2001, Dt:17.12.2001. He has requested to reinstate into service as per the orders of Tribunal in OA 1293/2014/WP in WP No.17521 of 2021 and to drop further action in the matter.	The Inquiry Officer has clearly held that "As brought out in the V&E Report, the C.O. resorted to fabrication of certificates and forgery of signatures of officials and encouraged taking bribes from ineligible candidates. Denying the charges without giving any proof does not prove the innocence of the C.O."

7. After careful examination of the Vigilance & Enforcement report, inquiry report, Court directions and the representations of the individual, it is felt that the explanation offered by the charged officer is not only un-reasonable and unacceptable but also quite contrary to the evidence available on record. Considering the very active role played by the charged Officer in the entire episode and initiation of the fraud, it is decided to impose punishment of dismissal from service against Sri N.Lakshminarayana Sharma(alias N.Lakshminarayana), the then Junior Assistant cum Bill Collector, Rangampeta, Gram Panchyat, East Godavari District, under Rule 9 (X) of A.P.C.S (CC&A) Rules, 1991.

8. Accordingly Government hereby impose punishment of dismissal from service against Sri N.Lakshminarayana Sharma(alias N.Lakshminarayana)

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the then Junior Assistant cum Bill Collector, Rangampeta, Gram Panchyat, East Godavari District, under Rule 9 (X) of A.P.CS (CC&A) Rules, 1991.

9. The Commissioner, Panchayat Raj and Rural Development, Tadepalli, Guntur District shall take necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

To
The individual through the District Collector, East Godavari District.
The District Collector, East Godavari District.
The Commissioner, Panchayt Raj & Rural Development, Tadepalli, Guntur District.
The Secretary, Andhra Pradesh Public Service Commission, Vijayawada.
Copy to:
The A.P Vigilance Commission,
Secretariat Buildings, Amaravathi.
The General Administration(V&E) Department,
The Panchyat Raj and Rural Development (Estt.III) Department.,
SF/SC.

//FORWARDED::BY::ORDER//

SECTION OFFICER